U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

PUBLIC COPY

[redacted]

FILE: [redacted] Office: NEW YORK, NEW YORK Date: MAR 20 2006

IN RE: Applicant: [redacted]

APPLICATION: Application for Certificate of Citizenship pursuant to Section 201(g) of the Nationality Act of 1940; 8 U.S.C. § 601(g).

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Application for a certificate of citizenship was denied by the District Director, New York, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director indicated in her April 6, 2005 denial that the applicant filed her application for a certificate of citizenship pursuant to § 322 of the Immigration and Nationality Act ("the Act"), 8 U.S.C. § 1433. The AAO notes that the Child Citizenship Act of 2000 (CCA), which took effect on February 27, 2001, amended sections 320 and 322 of the Act. The provisions of the CCA are not retroactive, however, and the amended provisions of section 320 and 322 of the Act, apply only to persons who were not yet eighteen-years-old as of February 27, 2001. Because the applicant was born on June 19, 1941, she was over the age of eighteen on February 27, 2001; hence, she is not eligible for the benefits of the CCA. *See Matter of Rodriguez-Tejedor,* 23 I&N Dec. 153 (BIA 2001).

Moreover, "[t]he applicable law for transmitting citizenship to a child born abroad when one parent is a U.S. citizen is the statute that was in effect at the time of the child's birth." *Chau v. Immigration and Naturalization Service,* 247 F.3d 1026,1029 (9th Cir. 2000) (citations omitted). The applicant was born on June 19, 1941, § 201(g) of the Nationality Act is applicable to her citizenship claim.

Section 201(g) of the Nationality Act states in pertinent part that:

> A person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who, prior to the birth of such person, has had ten years residence in the United States or one of its outlying possessions, at least five of which were after attaining the age of sixteen years, the other being an alien.

On February 9, 2005, the district director requested documentation in support of the applicant's U.S. citizen mother's physical presence in the United States. As the applicant failed to provide the requested evidence, the district director denied the application for lack of prosecution, pursuant to 8 C.F.R. § 103.2(b)(11) and (13).

The applicant submitted a timely Form I-290B on April 29, 2005, but she failed to state any basis for the appeal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

On the Form I-290B, the applicant does not state how the director made any erroneous conclusion of law or statement of fact in denying the application. No brief or evidence is attached to the Form I-290B. As the applicant fails to present additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v). The burden of proof in this proceeding rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has not sustained that burden.

ORDER: The appeal is dismissed.